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09/990,097	11/20/2001	Osman K. Isvan	18864-06145	1285

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EXAMINER

CHAU, COREY P

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,097

Applicant(s)

ISVAN, OSMAN K.

Examiner

Corey P. Chau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 and 58-63 is/are pending in the application.
- 4a) Of the above claim(s) 6,8,9,17,19,20 and 61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,7,10-16,18,21,23,24,26,39,40,62 and 63 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,22,25,27-29,35,37 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 58 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5761298 to Davis et al. (hereafter as Davis).

3. Regarding Claim 58, Davis discloses an apparatus capable of providing output signals in response to acoustic signals, including acoustic signals received from a desired acoustic source (Fig. 1), the apparatus comprising:

a main body (Fig. 1);

a microphone housed in the main body (102);

a primary boom (16), coupled to the main body; and

a secondary boom (20) slidably coupled to the primary boom and having an opening at a distal end thereof, the opening being acoustically coupled to the microphone, wherein the ratio of an amplitude of the output signal to an amplitude of acoustic signals received at the opening of the secondary boom is a function of the position of the secondary boom (Figs. 1, and 3A-3B).

4. All elements of Claim 60 are comprehended by Claim 58. Claim 60 is rejected for the reasons stated above apropos to Claim 58 (Figs. 1, and 3A-3B).

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5. Claims 58, 59 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4020297 to Brodie.

6. Regarding Claim 58, Brodie discloses an apparatus capable of providing output signals in response to acoustic signals, including acoustic signals received from a desired acoustic source (Fig. 1), the apparatus comprising:

- a main body (Fig. 1);

- a microphone housed in the main body (18);

- a primary boom (column 2, lines 24-34 and lines 56-68), coupled to the main body; and

- a secondary boom (column 2, lines 24-34 and lines 56-68) slidably coupled to the primary boom and having an opening at a distal end thereof, the opening being acoustically coupled to the microphone, wherein the ratio of an amplitude of the output signal to an amplitude of acoustic signals received at the opening of the secondary boom is a function of the position of the secondary boom (Fig. 1).

7. Regarding Claim 59, Brodie discloses the primary boom is movably coupled to the main body; and the ratio of the amplitude of the output signal to the amplitude of the received acoustic signal is a function of the positions of both the primary boom and the secondary boom (Fig. 1; column 2, lines 24-34 and lines 56-68)

8. All elements of Claim 60 are comprehended by Claim 58. Claim 60 is rejected for the reasons stated above apropos to Claim 58 (Figs. 1, and 3A-3B).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 4, 7, 10-16, 18, 21, 23-24, 26, 39-40, and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5761298 to Davis in view of U.S. Patent N. 5359157 to Liu.

11. Regarding Claim 1, Davis discloses an apparatus capable of providing an output signal in response to sound pressure in the vicinity of a desired acoustic source, the apparatus comprising (Fig. 1):

a main body (Fig. 1);

a boom (20), movably coupled to the main body and adapted to be positioned in at least a first position or a second position (Fig. 1);

a microphone (102);

an acoustic sensing point (Figs. 1 and 3A-3B), acoustically coupled to the microphone, wherein the acoustic sensing point is disposed at different distances from the desired acoustic source when the boom is in the first position and the second position; and

a controller (Figs. 1 and 3A-3B), coupled to the boom, for changing a ratio of an amplitude of the output signal to an amplitude of sound pressure at the acoustic sensing point in response to the position of the boom.

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Davis discloses a microphone, but only generally; no specific hardware is taught. Therefore it would have been obvious to one having ordinary skill in the art to seek known microphones. Liu for example, discloses a microphone comprising a diaphragm. It would have been obvious to one having ordinary skill in the art to employ any known microphones, such as that of Liu. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Davis with the teaching of Liu to utilize a microphone comprising a diaphragm.

12. All elements of Claim 4 are comprehended by Claim 1. Claim 4 is rejected for the reasons stated above apropos to Claim 1.

13. All elements of Claim 7 are comprehended by Claim 1. Claim 7 is rejected for the reasons stated above apropos to Claim 1.

14. All elements of Claim 10 are comprehended by Claim 1. Claim 10 is rejected for the reasons stated above apropos to Claim 1 (Fig. 1).

15. Regarding Claim 11, Davis does not expressly disclose the apparatus is a mobile phone. However, the Examiner takes Office Notice that it would have been obvious to one having ordinary skill in the art to utilize the apparatus as a mobile telephone in order to allow desired configuration of a boom used to receive sound from the user of the mobile phone. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Davis to utilize the apparatus as a mobile telephone in order to allow desired configuration of a boom used to receive sound from the user of the mobile phone.

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16. Regarding Claim 12, Davis does not expressly disclose the apparatus is a sound recorder. However, the Examiner takes Office Notice that it would have been obvious to one having ordinary skill in the art to utilize the apparatus as a sound recorder in order to allow desired configuration of a boom used to receive sound from the user of the sound recorder. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Davis to utilize the apparatus as a sound recorder in order to allow desired configuration of a boom used to receive sound from the user of the sound recorder.

17. Regarding Claim 13, Davis does not expressly disclose the apparatus is a video camera. However, the Examiner takes Office Notice that it would have been obvious to one having ordinary skill in the art to utilize the apparatus as a video camera in order to allow desired configuration of a boom used to receive sound from the user of the video camera. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Davis to utilize the apparatus as a video camera in order to allow desired configuration of a boom used to receive sound from the user of the video camera.

18. Claim 14 is essentially similar to Claim 1 and is rejected for the reasons stated above apropos to Claim 1.

19. Claim 15 is essentially similar to Claim 2 and is rejected for the reasons stated above apropos to Claim 2.

20. Claim 16 is essentially similar to Claim 3 and is rejected for the reasons stated above apropos to Claim 3.

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21. Claim 18 is essentially similar to Claim 7 and is rejected for the reasons stated above apropos to Claim 7.

22. Claim 21 is essentially similar to Claim 1 and is rejected for the reasons stated above apropos to Claim 1 (Figs. 1 and 3A-3B).

23. Regarding Claim 23, Davis discloses the boom is slidably coupled to the main body so as the extended from the main body and closer to the desired acoustic source in the first position, and retracted towards the main body in the second position; and the microphone receives acoustic signals through the first opening located at a distal end of the boom when the boom is in each of the first and second position (Fig. 1).

24. Regarding Claim 24, Davis discloses the main body includes a boom jacket; and the boom is slidably coupled to the boom jacket (Fig. 1).

25. All elements of Claim 26 are comprehended by Claim 21. Claim 4 is rejected for the reasons stated above apropos to Claim 21.

26. Claim 39 is essentially similar to Claim 1 and is rejected for the reasons stated above apropos to Claim 1 (Figs. 1 and 3A-3B).

27. All elements of Claim 40 are comprehended by Claim 39. Claim 40 is rejected for the reasons stated above apropos to Claim 39.

28. Regarding Claim 62, Davis does not expressly disclose the secondary boom comprises a steel tube. However, the Examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art to utilize any known material such as steel in order to obtain the desired output. Therefore it would have been obvious to one

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having ordinary skill in the art at the time the invention was made to modify Davis to utilize any known material such as steel in order to obtain the desired output.

29. All elements of Claim 63 are comprehended by Claim 1. Claim 63 is rejected for the reasons stated above apropos to Claim 1.

30. Claims 1, 4, 7, 10-16, 18, 21, 23-24, 26, 30-34, 36, 39-40, and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4020297 to Brodie in view of U.S. Patent N. 5359157 to Liu.

31. Regarding Claim 1, Brodie discloses an apparatus capable of providing an output signal in response to sound pressure in the vicinity of a desired acoustic source, the apparatus comprising (Fig. 1):

- a main body (Fig. 1);

- a boom (19,21,22,23), movably coupled to the main body and adapted to be positioned in at least a first position or a second position (Fig. 1);

- a microphone (18);

- an acoustic sensing point (column 2, lines 56-68), acoustically coupled to the microphone, wherein the acoustic sensing point is disposed at different distances from the desired acoustic source when the boom is in the first position and the second position; and

- a controller (Fig. 1), coupled to the boom, for changing a ratio of an amplitude of the output signal to an amplitude of sound pressure at the acoustic sensing point in response to the position of the boom.

Brodie discloses a microphone, but only generally; no specific hardware is taught. Therefore it would have been obvious to one having ordinary skill in the art to seek known microphones. Liu for example, discloses a microphone comprising a diaphragm. It would have been obvious to one having ordinary skill in the art to employ any known microphones, such as that of Liu. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brodie with the teaching of Liu to utilize a microphone comprising a diaphragm.

32. All elements of Claim 4 are comprehended by Claim 1. Claim 4 is rejected for the reasons stated above apropos to Claim 1.

33. All elements of Claim 7 are comprehended by Claim 1. Claim 7 is rejected for the reasons stated above apropos to Claim 1.

34. All elements of Claim 10 are comprehended by Claim 1. Claim 10 is rejected for the reasons stated above apropos to Claim 1 (Fig. 1).

35. Regarding Claim 11, Brodie as modified does not expressly disclose the apparatus is a mobile phone. However, the Examiner takes Office Notice that it would have been obvious to one having ordinary skill in the art to utilize the apparatus as a mobile telephone in order to allow desired configuration of a boom used to receive sound from the user of the mobile phone. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brodie as modified to utilize the apparatus as a mobile telephone in order to allow desired configuration of a boom used to receive sound from the user of the mobile phone.

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36. Regarding Claim 12, Brodie as modified does not expressly disclose the apparatus is a sound recorder. However, the Examiner takes Office Notice that it would have been obvious to one having ordinary skill in the art to utilize the apparatus as a sound recorder in order to allow desired configuration of a boom used to receive sound from the user of the sound recorder. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brodie as modified to utilize the apparatus as a sound recorder in order to allow desired configuration of a boom used to receive sound from the user of the sound recorder.

37. Regarding Claim 13, Brodie as modified does not expressly disclose the apparatus is a video camera. However, the Examiner takes Office Notice that it would have been obvious to one having ordinary skill in the art to utilize the apparatus as a video camera in order to allow desired configuration of a boom used to receive sound from the user of the video camera. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brodie as modified to utilize the apparatus as a video camera in order to allow desired configuration of a boom used to receive sound from the user of the video camera.

38. Claim 14 is essentially similar to Claim 1 and is rejected for the reasons stated above apropos to Claim 1.

39. Claim 15 is essentially similar to Claim 2 and is rejected for the reasons stated above apropos to Claim 2.

40. Claim 16 is essentially similar to Claim 3 and is rejected for the reasons stated above apropos to Claim 3.

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41. Claim 18 is essentially similar to Claim 7 and is rejected for the reasons stated above apropos to Claim 7.

42. Claim 21 is essentially similar to Claim 1 and is rejected for the reasons stated above apropos to Claim 1 (Figs. 1).

43. Regarding Claim 23, Brodie as modified discloses the boom is slidably coupled to the main body so as the extended from the main body and closer to the desired acoustic source in the first position, and retracted towards the main body in the second position; and the microphone receives acoustic signals through the first opening located at a distal end of the boom when the boom is in each of the first and second position (Fig. 1; column 2, lines 24-34 and lines 56-68).

44. Regarding Claim 24, Brodie as modified discloses the main body includes a boom jacket; and the boom is slidably coupled to the boom jacket (Fig. 1).

45. All elements of Claim 26 are comprehended by Claim 21. Claim 4 is rejected for the reasons stated above apropos to Claim 21.

46. Regarding Claim 30, Brodie as modified discloses the boom comprises at least a first segment and a second segment movably coupled to the first segment, so as to provide the first position wherein the first segment is extended from the main body and the second segment is extended from the first segment, both being extended closer to the desired acoustic source, and to provide the second position wherein the first segment and the second segment are both retracted towards the main body (Fig. 1); and the microphone receives acoustic signal through the first opening located at a distal

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end of the second segment of the boom when the boom is in each of the first and second position (Fig. 1; column 2, lines 56-68; column 3, lines 9-19).

47. Regarding Claim 31, Brodie as modified discloses the first segment of the boom is slidably coupled to the main body (Fig. 1).

48. Regarding Claim 32, Brodie as modified discloses the first segment of the boom pivots about the main body (Fig. 1).

49. Regarding Claim 33, Brodie as modified discloses the second segment of the boom is slidably coupled to the first segment (Fig. 1).

50. Regarding Claim 34, Brodie as modified discloses the second segment of the boom pivots about the first segment (Fig. 1; column 2, lines 24-34).

51. All elements of Claim 36 are comprehended by Claim 1. Claim 36 is rejected for the reasons stated above apropos to Claim 1.

52. Claim 39 is essentially similar to Claim 1 and is rejected for the reasons stated above apropos to Claim 1 (Figs. 1 and 3A-3B).

53. All elements of Claim 40 are comprehended by Claim 39. Claim 40 is rejected for the reasons stated above apropos to Claim 39.

54. Regarding Claim 62, Brodie as modified does not expressly disclose the secondary boom comprises a steel tube. However, the Examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art to utilize any known material such as steel in order to obtain the desired output. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was

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made to modify Brodie as modified to utilize any known material such as steel in order to obtain the desired output.

55. All elements of Claim 63 are comprehended by Claim 1. Claim 63 is rejected for the reasons stated above apropos to Claim 1.

Allowable Subject Matter

56. Claims 2-3, 5, 22, 25, 27-29, 35, and 37-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

57. Applicant's arguments filed 4/18/2006 have been fully considered but they are not persuasive.

58. With respect to Applicant's argument on page 11, stating that "Davis, as in all other communications headsets of the prior art, the amplitude of the electrical output signal of the microphone 102 to the amplitude of the acoustic signals received at the opening at the distal end 21 of the microphone boom 17 is fixed, i.e., constant irrespective of the position of the microphone boom, and this is true whether the microphone is located at the distal end of the boom, or at the proximal end of a "voice tube" boom, as in Davis", has been noted. However the Examiner respectfully disagrees. It is implicit that Davis discloses a change in ratio of an amplitude of the output signal to an amplitude of sound pressure at the acoustic sensing point in

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response to the position of the boom because the shape, size, and built of the "voice tube" (i.e. boom) changes the impedance of the "voice tube", which changes the ratio of an amplitude of the output signal to an amplitude of sound pressure at the acoustic sensing point in response to the position of the boom.

59. With respect to Applicant's argument on page 12, stating that "Davis teaches just the opposite, that the ratio is fixed, regardless of the position of the boom", has been noted. However the Examiner respectfully disagrees. See argument above.

60. With respect to Applicant's argument on page 12, stating that "it is noted that in Brodie, as in Davis et al. above, the amplitude of the electrical output signal of the microphone 18 to amplitude of the acoustic signals received at the sensing point, i.e. the opening at the distal end 23 of the microphone boom 19 is fixed, i.e. constant, regardless of the position of the microphone boom", has been noted. However the Examiner respectfully disagrees. It is implicit that Brodie, like Davis discloses a change in ratio of an amplitude of the output signal to an amplitude of sound pressure at the acoustic sensing point in response to the position of the boom because the shape, size, and built of the "voice tube" (i.e. boom) changes the impedance of the "voice tube", which changes the ratio of an amplitude of the output signal to an amplitude of sound pressure at the acoustic sensing point in response to the position of the boom.

61. With respect to Applicant's argument on page 13, stating that "Brodie, like Davis et al. above, fails to teach or suggest the limitation of claim 58, "wherein a ratio of an amplitude of the output signal of an amplitude of acoustic signal received at the opening

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of the secondary boom is a function of the position of the secondary boom", has been noted. However the Examiner respectfully disagrees. See argument above.

62. With respect to Applicant's argument on page 13, stating that "Davis teaches the amplitude of the electrical output signal of the microphone to the amplitude of the acoustic signals received at the acoustic sensing point, i.e., the opening at the microphone boom, is fixed, i.e., constant, regardless of the position of the microphone boom", has been noted. However the Examiner respectfully disagrees. See argument above.

63. In response to applicant's arguments on page 14, against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

64. With respect to Applicant's argument on page 14, stating that "a thorough review of Brodie reveals that, for the reasons discussed above with respect to Davis et al. and Liu, it fails to teach or even suggest the respective limitations discussed above as regards independent claims 1, 14, 21, and 39, and in fact, teaches straight away from them", has been noted. However the Examiner respectfully disagrees. See argument above.

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Conclusion

65. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Division 2615.

66. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


67. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P. Chau whose telephone number is (571)272-7514. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 07, 2006

CPC


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